

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

KAVYA NAGARAJ,

Plaintiff,

v.

UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, et al.,

Defendants.

Civil Action No. 1:18-cv-01977-TSC

STATUS REPORT

Defendants, by and through undersigned counsel, respectfully submit this Status Report to bring to the Court's attention subsequent developments in this case.

On July 10, 2019, United States Citizenship and Immigration Services ("USCIS") issued an approval notice for a Petition for a Non-Immigrant Worker pursuant to Form I-129 that was filed by Axtria Inc. ("Axtria"), on April 11, 2017 (Receipt Number EAC1713852386). *See* Exh. A. The approval notice indicates that although the petition was approved for the classification requested—H-1B—from July 10, 2019 until September 12, 2020, beneficiary and Plaintiff was not deemed eligible for the requested change of status. On July 15, 2019, USCIS issued its explanation as to why Plaintiff's change of nonimmigrant status from F-1 to H-1B was denied. *See* Exh. B. USCIS explained that an alien who is continuing to maintain nonimmigrant status is eligible to apply for a change of status according to 8 C.F.R. § 248.1(a). *Id.* USCIS records showed that Plaintiff had left the United States on August 22, 2018 and returned on September 14, 2018. As a result USCIS considered Plaintiff to have abandoned the request for a change of nonimmigrant status. *Id.* This approval notice for Receipt Number EAC1713852386 was issued pursuant to USCIS's issuance of a Reopen Notice

on February 20, 2019, *see* ECF No. 14-1, and a subsequent Request for Evidence (“RFE”) issued on February 21, 2019. *See* ECF No. 14-2. The approval notice for Receipt Number EAC1713852386 explained that even though the Plaintiff was deemed ineligible for a change of status, the Plaintiff could depart the United States and apply for her visa at a consulate abroad. *See* Exh. A.

However, on July 10, 2019, USCIS issued an approval notice for a second Petition for a Non-Immigrant Worker pursuant to Form I-129 that was filed by Axtria on April 11, 2019 (Receipt Number EAC1916851245) and independent from the aforementioned petition. *See* Exh. C. This approval notice confers upon Plaintiff H-1B status which is valid from October 1, 2019 until September 15, 2022.

As Plaintiff’s I-129 Petition and request for change in status have been adjudicated, Plaintiff’s claims as laid out in the Complaint are now moot. *See* ECF No. 1. On July 15, 2019, Defendants’ counsel, Daniel P. Chung, contacted Plaintiff’s counsel, Michael E. Piston, via email at michaelpiston4@gmail.com informing him of the decisions and inquiring whether Plaintiff would agree to a voluntary dismissal. On July 17, 2019, Defendant’s counsel again attempted to reach Mr. Piston at the same email address. As of July 17, 2019 Plaintiff’s counsel has not yet responded to Defendants’ counsel’s July 15 and July 17 emails.

DATED: July 26, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

WILLIAM C. PEACHEY
Director

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By: s/ Daniel P. Chung
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Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that on July 26, 2019, I electronically filed the foregoing STATUS REPORT with the Clerk of Court by using the CM/ECF system, which will provide electronic notice and an electronic link to this document to the following attorney of record:

Michael E. Piston
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DATED: July 26, 2019

By: /s/ Daniel P. Chung
DANIEL P. CHUNG
Trial Attorney
United States Department of Justice
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